

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Minister for Industry, Energy and Emissions Reduction

*Designs Act 2003*

*Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021*

The *Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021* ('Regulations') amend the *Designs Regulations 2004* ('Designs Regulations') to prescribe matters required under the provisions of the *Designs Act 2003* ('Designs Act') as amended by the *Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021* ('Amending Act').

### **Legislative authority**

Subsection 149(1) of the Designs Act provides that the Governor-General may make regulations prescribing matters: required or permitted by the Designs Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the Designs Act.

The Amending Act amends the Designs Act to give effect to recommendations of the former Advisory Council on Intellectual Property (ACIP), as well as making other improvements to the Designs Act.

The Designs Act does not specify any conditions that must be met before the power to make the Regulations may be exercised. The Amending Act does not alter this.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* ('Legislation Act').

### **Purposes of the Regulations**

The Schedules to the Regulations amend the Designs Regulations as follows:

#### Schedule 1 — Grace period

- Consequential amendments following the introduction of new grace period provisions by the Amending Act.

#### Schedule 2 — Registration of designs – removal of publication option

- Consequential changes following removal of the publication option by the Amending Act.
- Requests for withdrawals made ineligible for extensions of time.

Schedule 3 — Priority date where application for protection made in a Convention country

- Provides consistency between the requirements for entitlement to own a registered design and the requirements for making a Convention application (an application based on an earlier application in a country party to the *Paris Convention for the Protection of Industrial Property*).

Schedule 4 – Formal requirements

- Makes necessary changes to implement the replacement of the formal requirements in Schedule 2 by a non-legislative instrument made by the Registrar of Designs under new section 149A of the Designs Act inserted by the Amending Act.

Schedule 5 – Application and transitional provisions

- Sets out how the amendments in Schedules 2, 3 and 4 will apply in certain circumstances.

Details of the Regulations are set out in **Attachment 1**.

### **Consultation on changes**

Prior to the making of the Regulations, two rounds of public consultation were conducted on the proposed changes.

From 31 October to 20 December 2019, IP Australia consulted the public on proposals to implement accepted recommendations from the ACIP review. IP Australia also conducted roundtable discussions with key design stakeholders in Sydney and in Melbourne.

From 23 July to 28 August 2020, IP Australia released an exposure draft of the Bill, Regulations, and explanatory materials for public comment. Submissions did not express any concerns about the Regulations.

### **No Regulation Impact Statement required for the Regulations**

The Office of Best Practice Regulation ('OBPR') has advised that no Regulation Impact Statement is required to be prepared for these amendments. The OBPR reference numbers are provided below:

- Schedule 1 – Grace period: 19464
- Schedule 2 – Registration of designs – removal of publication option: 17566
- Schedule 3 – Priority date where application for protection made in a Convention country: 19468
- Schedule 4 – Formal requirements: 25347.

## **Statement of compatibility with human rights**

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires the rule-maker in relation to a legislative instrument to which section 42 (disallowance) of the Legislation Act applies to cause a statement of compatibility to be prepared in respect of that legislative instrument. A Statement of Compatibility to meet that requirement is **Attachment 2**.

## **Anticipated authority**

Some amendments made by Schedules 2 and 4 to the Regulations depend on amendments to the Designs Act that do not commence until some months after the registration of the Regulations on the Federal Register of Legislation. That is, the following amendments rely on section 4 of the *Acts Interpretation Act 1901* ("Interpretation Act"):

- Schedule 2 to the Regulations depends on the amendments that will be made to the Designs Act by Schedule 3 to the Amending Act.
- Schedule 4 to the Regulations depends on the amendments that will be made to the Designs Act by Schedule 6 to the Amending Act.

## **Commencement**

The commencement arrangements for each of the Schedules are set out in the commencement table at section 2 of the Regulations, and are explained in more detail in **Attachment 1**.

As noted above, amendments made by Schedules 2 and 4 to the Regulations depend on amendments made by parts of the Amending Act that do not commence until some months after the registration of the Regulations on the Federal Register of Legislation. Accordingly, for consistency with subsection 4(5) of the Interpretation Act, these amendments do not commence until immediately after the corresponding schedules to the Amending Act commence.

## **Attachment 1**

### **Details of the Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021**

#### **Section 1 – Name**

This section identifies the instrument as the *Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021*.

#### **Section 2 – Commencement**

The section provides that Schedules 1, 2 and 4 to the Regulations will commence at the same time as the corresponding Schedules in the Amending Act (i.e. Schedule 1, Schedule 3 and Schedule 6 to the Amending Act respectively).

The corresponding schedules to the Amending Act commence on a single day to be fixed by Proclamation or 6 months after the Amending Act receives Royal Assent. This will give stakeholders time to consider and plan how they will change their designs filing strategies to take advantage of the amendments and enable the necessary regulation and ICT system changes to be made before commencement.

This section provides that Schedule 3 to the Regulations commences the day after the instrument is registered. This will ensure this beneficial provision applies immediately.

This section provides that Schedule 5 to the Regulations commences the day after the instrument is registered. The Schedule contains application provisions which can commence immediately, even though some will not have any effect until other Schedules have commenced.

#### **Section 3 – Authority**

This section identifies the authority for this instrument as the Designs Act.

#### **Section 4 – Schedules**

This section provides that the Designs Regulations are amended as set out in the schedules below.

#### **Schedule 1 – Grace period**

This Schedule makes consequential amendments following introduction of new grace period provisions by Schedule 1 to the Amending Act. Since details of the grace period are no longer to be prescribed by the Designs Regulations, Chapter 2 is simply to be repealed.

Item 3 of Schedule 1 to the Amending Act continues the effect of the repealed Chapter 2 for applications filed before commencement of that item.

### ***Designs Regulations 2004***

#### **Item 1: Chapter 2**

[Chapter 2]

This item repeals the whole of Chapter 2. This Chapter contained provisions prescribing matters required to be prescribed by the repealed subsection 17(1). The new subsection 17(1) as amended by the Amending Act does not require that details of the grace period are prescribed in the Designs Regulations.

### **Schedule 2 – Registration of designs – removal of publication option**

This Schedule makes consequential amendments following the removal of the publication option, and other changes to the request for registration system, by Schedule 3 to the Amending Act. In addition, requests for withdrawals of design applications are to be ineligible for extensions of time. An extension of time for a request for withdrawal would be impractical, since the period for filing such a request ends on registration of the design, and registration of a design entails making it publicly available, which cannot be undone

### ***Designs Regulations 2004***

#### **Items 1, 2, 4, 5, 6, 7, 10, 11**

[rr 3.02, 3.13, 3.15, 4.01, Part 4.4 of Chapter 4, 8.02; Chapter 4 headings]

These items remove references to publication of designs, given the removal of this option from the Designs Act by Schedule 3 to the Amending Act.

#### **Item 3: Regulation 3.14**

[r 3.14]

This item repeals subregulation 3.14 and substitutes a new regulation 3.14 to prescribe the period before a design application lapses. The repealed regulation 3.14 prescribed periods for the purposes of the repealed paragraphs 33(1)(a) and (b) of the Designs Act, which provided for lapsing of design applications where a request for registration or publication, or a satisfactory response to a Registrar's notification under section 41, are not received within the prescribed period.

New subsection 33(1) of the Designs Act provides for lapsing of design applications due to an applicant's failure to respond to the Registrar's notification under section 41 within a prescribed period, in the same way as repealed paragraph 33(1)(b). Section 41 requires the Registrar to notify the applicant of an opportunity to correct deficiencies within a prescribed period due to a formalities defect under sections 39 or 40 of the Designs Act. New regulation 3.14

prescribes this period to remain at two months from the date of the first notification, the same limit as repealed paragraph 3.14(2)(a).

#### **Item 8: Subregulation 4.01(1)**

[r 4.01]

This item repeals subregulation 4.01(1), which specifies that the time limit in subregulation 4.01(2) does not apply to a request mentioned in section 37 or subsection 38(2) of the Designs Act or in subregulation 12.03(2). Sections 37 and 38 will be repealed by the Amending Act and the design applications that could be filed under subregulation 12.03 can no longer be filed. As such subregulation 4.01(1) is no longer necessary.

Section 37 provided that design applications in respect of designs excluded from an earlier application must include a request for registration (or publication) of all the designs in the application. Section 37 is being repealed by the Amending Act. Applications in respect of designs excluded from an earlier application will now be deemed to include a request for registration as per new section 36 of the Designs Act.

Section 38 provided for replacement of a request for registration with a request for publication. The prescribed time period for such a request was provided by regulation 4.03. Section 38 is being repealed by the Amending Act, as requests for publication will no longer be available.

Subregulation 12.03(2) applies to designs excluded from “transitional applications”. Transitional applications were applications made under the *Designs Act 1906* before 17 June 2004, and designs excluded from these applications were given special treatment by regulation 12.03. Such designs can no longer be filed.

#### **Item 9: Regulations 4.02 & 4.03**

[rr 4.02, 4.03]

This item repeals regulations 4.02 and 4.03, which prescribed matters for the purposes of sections 36 and 38 of the Designs Act. Section 38 is being repealed by the Amending Act, while new section 36 deals with different subject matter from repealed section 36 and does not require the prescription of any matters.

#### **Item 12: Regulation 11.03**

[r 11.03]

This item repeals and replaces regulation 11.03, which deals with the consequences of non-payment of the fee in item 2 of Schedule 4 to the Designs Regulations. Item 2 in Schedule 4 will set the fee for amending a design application to identify “further designs” disclosed in the application. (Details of the intended operation of the fee in item 2 in Schedule 4 to the Designs Regulations are set out in item 14 below.)

New regulation 11.03 will become relevant if the fee in item 2 of Schedule 4 is not paid when payable, that is, when the request to amend the application to identify further designs is made. The Registrar will then invite payment within 1 month after the day the request to amend is made and set a seven day period to pay the fee. If the fee is not paid within that period, the regulation applies, and the request to amend the application would be taken not to be filed.

In the ordinary case when the unpaid amendment was filed in response to a notification under section 41 of the Act, this will likely result in the application lapsing once the period to respond to the section 41 notification ends. (Under section 33 as modified by the Amending Act, the application lapses if the applicant does not amend or respond to a notification under section 41 so as to ensure the application meets the requirements of Chapter 4 within the prescribed period.)

The period for responding to the invitation to pay is short, as the need to pay the fee should be clear from the time of the issuance of the notification under section 41, the fee will be indicated as payable as part of the process of submission of the amendment through IP Australia's electronic systems, and it would not be desirable if non-payment of the fee could be used to substantially extend the time to respond to a notification under section 41.

### **Item 13: At the end of regulation 11.13**

[r 11.13]

This item amends regulation 11.13 by introducing new subregulation 11.13(5), which sets out two "prescribed actions" for the purpose of the definition of "relevant act" in subsection 137(7) of the Designs Act.

Section 137 of the Designs Act provides for extensions of time in respect of deadlines under the Designs Act, but only for relevant acts. "Relevant act" is defined by subsection 137(7) and is defined as any action or proceeding under the Designs Act, but excludes prescribed actions.

New subregulation 11.13(5) defines new prescribed actions such that an applicant cannot obtain an extension of time to withdraw a design application or to withdraw a design (under subsections 32(1) and (2) respectively).

The period to withdraw a design ends when the design is registered (see paragraph 3.13(2)(b)). The period to withdraw a design application ends when a design disclosed in the design application is registered (see paragraph 3.13(1)(b)). Extension of the withdrawal period beyond registration is not practical. This is because registration of a design entails making it publicly available (section 60), which cannot be undone.

## **Item 14: Clause 1 of Schedule 4 (table item 2)**

[Sch 4]

This item repeals and replaces item 2 of clause 1 of Schedule 4, which sets a fee for amending a design application to identify “further designs” disclosed in the application.

“Further design” is defined as “a design that is disclosed in a design application, but that has not been identified, by the applicant, as being a separate design disclosed in an application”: regulation 1.04.

Fee item 1 of Schedule 4 sets a fee on filing a design application which is calculated on the basis of the number of designs identified by the applicant as being a separate design disclosed in the application.

When the applicant does not identify all separate designs in their application, they will be identified by an examiner during the “formalities check” under section 39 or section 40 of the Designs Act. The application will not pass the formalities check since “the number of designs disclosed in the design application is [not] the number of designs identified, by the applicant, as being separate designs disclosed in [the] application”: paragraph 4.05(1)(g).

Applicants can respond to a failed formalities check under section 41. An applicant could choose to amend their application either to exclude the further designs or to correct the number of designs to include the further designs. If the applicant chooses to correct the number of designs in the application, the fee in item 2 of Schedule 4 to the Designs Regulations would be payable.

The fee in old fee item 2 was payable at the time a request for registration of a further design was filed. However, this is no longer appropriate, as a request for registration may not necessarily be actually filed, but rather may be taken to be filed under subsections 35(4) and (5), which are being added by the Amending Act. The new fee item more accurately reflects the process by which further designs are identified and registered through the application and formalities checking processes.

The overall effect of fee item 1 and replaced item 2 of Schedule 4 is therefore to ensure that, by the time a design passes its formalities check, the total fee the applicant must pay is calculated based on the number of the designs that are in their application when the application passes the formalities check, regardless of whether the applicant correctly identified the number of designs in their application when initially filed.

The fee in new item 2 is calculated by reference to whether or not the application was originally filed by preferred means, rather than whether or not the amendment was filed by preferred means. Requests filed by preferred means are charged lower fees because such requests require less manual processing by the Registrar of Designs. In the case of this fee, the processing effort is



principally incurred when processing the application, not when processing the amendment.

### **Schedule 3 – Priority date where application for protection made in a Convention country**

The Schedule amends the procedures for determining the priority date of a design application, where a first application for registration of that design was not filed in Australia but was filed in a Convention country. “Convention country” is a foreign country signatory to the *Paris Convention for the Protection of Industrial Property* (Paris Convention) or a foreign country that is a full member of the World Trade Organisation.<sup>1</sup>

Australia is a party to the Paris Convention. Under the Paris Convention, a person who has made an application for protection of a design in a Convention country (the “basic application”) has the right, within six months from the date of the basic application, to claim the priority of that application in an application in respect of the same design in any other Convention country.

Pursuant to paragraph 27(1)(b) of the Designs Act and to implement Australia’s obligations under the Paris Convention, existing subregulation 3.06(2) prescribes that the priority date of an Australian application is the date the “basic application” was made in a Convention country, on certain conditions. One condition is that the application must be made by certain persons identified in paragraphs 3.06(2)(a), (b) or (c).

However, the former ACIP identified that this subregulation unnecessarily restricts Convention applications. ACIP noted that a person may be entitled to own a registered design under section 13, but not be entitled to make a Convention application under subregulation 3.06(2). To resolve this inconsistency, ACIP recommended<sup>2</sup> that regulation 3.06 should be drafted consistently with the requirements for entitlement under section 13 of the

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<sup>1</sup> Section 5A Designs Act; Regulation 1.05 Designs Regulations. In addition, subregulation 3.06(6) deems certain applications made to international bodies (such as under the Hague Agreement Concerning the International Deposit of Industrial Designs) to have been made in Convention countries.

<sup>2</sup> Advisory Council on Intellectual Property, Review of the Designs System, Final Report, March 2015, p 38 (Recommendation 18a).

Designs Act. The Government accepted this recommendation in its response to the ACIP review.<sup>3</sup> This Schedule implements that recommendation.

### ***Designs Regulations 2004***

#### **Item 1: Subregulation 3.06(2)(c)**

[r 3.06]

This item repeals and substitutes subregulation 3.06(2) to provide consistency between the requirements for entitlement to own a registered design as specified in section 13 of the Designs Act and the requirements for making an application based on an earlier application in a “Convention country” as specified in subregulation 3.06(2).

The amendments remove the conditions in existing paragraphs 3.06(2)(a), (b) and (c), and allow for anyone to file the Australian application within six months after the date the basic application was made and still retain the initial date of the basic application as the priority date. Anyone can be the applicant so long as the entitled person (as defined in section 13 of the Designs Act) is entered onto the Register as the registered owner.

New subregulation 3.06(2) will ensure the rules regarding the identity of Convention applicants are consistent with rules relating to entitlement to own designs under section 13 of the Designs Act.

### **Schedule 4 – Formal requirements**

Schedule 6 to the Amending Act amends the Designs Act to enable the Registrar to determine formal requirements for design applications in a non-legislative instrument, rather than have those formal requirements determined by the Designs Regulations. Consequentially, this Schedule repeals the formal requirements in Schedule 2 to the Designs Regulations, and makes further amendments in line with the purpose of moving the formal requirements to a non-legislative instrument.<sup>4</sup>

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<sup>3</sup> Government response – ACIP Review of the Designs System (Recommendation 18a).

<sup>4</sup> Non-legislative instruments can be found at: <https://www.ipaustralia.gov.au/about-us/legislation/ip-legislation>.

## ***Designs Regulations 2004***

### **Item 1: Subregulation 1.04(1) (definition of *approved form*)**

[r 1.04]

This item repeals and substitutes a new definition of 'approved form' in subregulation 1.04(1). Under the new definition, an approved form is one approved under new subregulation 1.04(1A) (item 2, below). The amendments in this item and item 2 make the Registrar's power to approve a form explicit, removing any uncertainty as to the scope of the Registrar's implicit power to approve a form under the repealed regulation 1.04.

### **Item 2: After subregulation 1.04(1)**

[r 1.04]

This item adds a new subregulation 1.04(1A), which provides an explicit power for the Registrar to approve a form, in writing, for the purpose of a provision of the Designs Regulations.

### **Item 3: After paragraph 4.04(1)(a)**

[r 4.04]

This item amends regulation 4.04 by inserting new paragraph 4.04(1)(aa), so that a design application that contains scandalous matter or matter that may be reasonably taken to be scandalous will fail the formalities check required by section 39 of the Designs Act.

The requirement has been moved from existing clause 8 of Schedule 2 to the Designs Regulations. Schedule 2 to the Designs Regulations is being repealed by item 15 of this Schedule. Inclusion of the requirement in the formalities check prescribed by the Designs Regulations avoids any doubts as to whether the requirement is appropriate for inclusion in a non-legislative instrument under section 149A of the Designs Act.

### **Item 4: Subparagraph 4.04(1)(e)(i)**

[r 4.04]

This item amends subparagraph 4.04(1)(e)(i) by removing the cross-reference to the paper size requirement in Schedule 2 (which is repealed by item 15 of this Schedule) and replacing it with a direct requirement to use international sheet size A4.

### **Items 5 & 6: Paragraphs 4.04(1)(f) & (g)**

[r 4.04]

These items amend regulation 4.04 by removing the requirement to substantially comply with the formal requirements in Schedule 2 from the formalities check. Schedule 2 to the Designs Regulations is being repealed by item 15 of this Schedule. The requirement to comply with the non-legislative formal requirements instrument is now contained in paragraph 39(2)(aa) of the Designs Act itself, and as such is no longer needed in the formalities check prescribed in the Designs Regulations.

#### **Items 7 – 10**

[r 4.05]

These items make changes to regulation 4.05, which prescribes the formalities check for applications where registration of multiple designs is requested. These changes correspond to the changes made by items 3 – 6 to regulation 4.04, which prescribes the formalities check for applications containing a single design.

#### **Item 11: Regulation 11.18A (heading)**

[r 11.18A]

This item retitles regulation 11.18A to reflect its additional subject matter added by item 12.

#### **Item 12: Regulation 11.18A**

[r 11.18A]

Subsection 149A(2) of the Designs Act requires the Registrar to publish the formal requirements determination in accordance with the Designs Regulations. This item amends regulation 11.18A to require that this publication occur in the Official Journal, as defined in subregulation 1.04(1).

#### **Item 13: Subregulation 11.27(2)**

[r 11.27]

Existing regulation 11.27 relates to the form of documents other than design applications. This item amends subregulation 11.27(2) to replace the requirement to substantially comply with the formal requirements in Schedule 2 with a requirement to comply with the new formal requirements determination, to be made under new section 149A of the Designs Act.

#### **Items 14 to 15: Subregulation 11.27(3)**

[r 11.27]

These items clarify paragraphs 11.27(3)(a) and 11.27(3)(b) to make it clear that documents subject to these paragraphs must either comply with subregulation 11.27(2) or be in accordance with the applicable approved form. This aligns with

other amendments made by this Schedule and the rest of subregulation 11.27(3).

#### **Item 16: Paragraph 11.27(3)(c)**

[r 11.27]

This item inserts new paragraph 11.27(3)(c) which will provide the Registrar with the option of treating a document that does not comply with subregulation 11.27(2) or is not in accordance with the approved form as complying with the requirements. This will provide the Registrar with option of not having to return documents where the non-compliance with subregulation 11.27(2) or the approved form is of a trivial or inconsequential nature.

#### **Item 17: Schedule 2**

[Sch 2]

This item repeals Schedule 2 as a consequence of the Amending Act, which enables the Registrar to determine formal requirements in a non-legislative instrument under new section 149A of the Designs Act.

#### **Schedule 5 – Application and transitional provisions**

This Schedule amends the Designs Regulations to:

- set out how the amendments in Schedules 2, 3 and 4 to the Regulations will apply in certain circumstances; and
- save the operation of any repealed provisions, as necessary.

#### ***Designs Regulations 2004***

#### **Item 1: In the appropriate position in Chapter 12**

[rr 12.09, 12.10, 12.11]

This item inserts a new Part 4 to Chapter 12 to set out application provisions for Schedules 2, 3 and 4.

New regulation 12.09 makes transitional arrangements for the amendments in Schedule 2 to the Regulations.

As with the changes in Schedule 3 to the Amending Act (see item 36 of Schedule 3 to that Act), the general rule is that the changes apply to design applications filed on or after commencement. This general rule is set out in subregulation 12.09(2).

It follows that design applications filed before commencement that remain pending at commencement will be subject to the current system including the time limits in regulations 3.14 and 4.03 and the limitations in regulation 4.02.

Section 23 of the Designs Act makes special provision for design applications in respect of designs excluded from an earlier application (called the “initial application”). The Amending Act (Schedule 3 item 36(1)) provides that the amendments to section 23 apply to initial applications filed on or after commencement. In the same way, subregulation 12.09(1) provides that the amendment of subparagraph 3.02(b)(ii) will apply to initial applications filed on or after commencement.

New regulation 12.10 makes transitional arrangements for the amendments in Schedule 3 to the Regulations.

These provisions will apply to “basic applications” (as defined in subregulation 3.06(1)) made on or after the commencement of the regulation.

New regulation 12.11 makes transitional arrangements for the amendments in Schedule 4 to the Regulations.

Subregulation 12.11(1) preserves the effect of existing “approved forms”, by providing that approved forms existing at commencement continue to apply as if they had been approved under new subregulation 1.04(4A).

The formal requirements determination to be made under new section 149A as added by the Amending Act applies to both design applications and documents filed at the Designs Office other than design applications.

For design applications, subregulation 12.11(2) applies the changes to the Designs Regulations consequential to the replacement of Schedule 2 with the formal requirements determination under new section 149A. These changes are applied to applications filed on or after commencement, in line with item 5 of Schedule 6 to the Amending Act.

For documents filed at the Designs Office other than design applications, subregulation 12.11(3) applies the changes consequential to the replacement of Schedule 2 to the Designs Regulations with the formal requirements determination under new section 149A. These changes are applied to documents filed on or after commencement. It follows even if an application was filed before commencement, if a document relating to the application is filed after commencement, the new formal requirements are applied.

## **Attachment 2**

### **Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### ***Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021***

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the disallowable legislative instrument**

The *Designs Amendment (Advisory Council on Intellectual Property Response) Regulations 2021* makes amendments to the *Designs Regulations 2004* ('the Regulations') to implement measures contained in the *Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021* ('the Act').

This disallowable instrument gives effect to several recommendations from the former Advisory Council on Intellectual Property (ACIP) that were accepted by the Government, as well as making other improvements to the design system. The Regulations are amended as follows:

##### Schedule 1: Grace period

- To reflect the introduction of a general "grace period" in the Act.

##### Schedule 2: Registration of designs – removal of publication option

- To support measures introduced in the Act to streamline the initial steps for registration.

##### Schedule 3: Priority date where application for protection made in a Convention Country

- Provides consistency between the requirements for entitlement to own a registered design and the requirements for making a Convention application (an application based on an earlier application in a country party to the *Paris Convention for the Protection of Industrial Property*).

##### Schedule 4: Formal requirements

- To reflect amendments to the Act to streamline the process for updating formal requirements for a design application.

##### Schedule 5: Application and transitional provisions

- Provides application and transitional provisions.

### **Human rights implications**

The disallowable legislative instrument does not engage any human rights issues.

### **Conclusion**

The disallowable legislative instrument is compatible with human rights because it does not raise any human rights issues.

The Hon Angus Taylor MP, Minister for Industry, Energy and Emissions Reduction